

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CHUKWUMA E. AZUBUKO, ) Civil No.11cv1818 AJB (BLM)  
)  
Plaintiff, )  
v. ) ORDER DENYING MOTION TO  
) PROCEED IN FORMA PAUPERIS  
)  
JUDGE VANESSA L. BRYANT, in )  
individual and official capacities; JUDGE )  
CHRISTOPHER F. DRONEY; JOHN ) [Doc. No. 2]  
JOHNSON, in individual and official )  
capacities, )  
)  
Defendants. )

On August 15, 2011, the Plaintiff, Chukwuma E Azubuko, a non-prisoner proceeding *pro se*, filed a Motion to Proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a)(1) and Local Rule 3.2(a).

The Court finds that Azubuko’s declaration of inability to pay costs or give security is insufficient to permit Plaintiff to proceed *in forma pauperis*. Permission to file a petition for writ of mandamus *in forma pauperis* will not be granted unless there is some merit in petition. 28 U.S.C.A. § 1915. The Plaintiff states having no take-home pay or wages, no ownership of real estate, and a total of \$150.00 in a checking or savings account. The only other income noted in the past twelve months was \$308 a family member received bi-weekly “from the DTA.” Although the Plaintiff need not be absolutely destitute to proceed *in forma pauperis* in federal court, a motion to proceed *in forma pauperis* must state facts as to affiant's poverty with some particularity, definiteness and certainty. *See* 28 U.S.C.A. § 1915;


1 *Jefferson v. U.S.*, 277 F. 2d 723 (9th Cir. 1960). The Plaintiff's motion fails to state with particularity,  
2 definiteness and certainty an inability to pay costs or give security under 28 U.S.C. § 1914(a) because:

- 3 1. Plaintiff completed and submitted an outdated Application to Proceed in District Court  
4 Without Prepaying Fees or Costs. Revised form AO 240 (Rev.07/10) is available on the  
5 Court's website to allow the Plaintiff to provide necessary information to state a suffi-  
6 cient claim;
- 7 2. Plaintiff fails to state the current and future amount received from the family member  
8 receiving "\$618.00 from the DTA - \$308.00 - bi-weekly";
- 9 3. Plaintiff fails to state with particularity the amount contributed to dependents; and
- 10 4. Plaintiff does not list any other debts (current obligations, indicating amounts owed and  
11 to whom they are payable).

12 Without further evidence, the Court lacks specific facts to find that the Plaintiff is not able to pay  
13 the filing fee under 28 U.S.C. § 1914(a). In light of this information, IT IS HEREBY ORDERED that  
14 Azubuko's motion to proceed *in forma pauperis* be **DENIED** and the Complaint **DISMISSED** without  
15 prejudice. Pursuant to this Order, the Plaintiff is granted 30 days leave to pay \$350.00 filing fee required  
16 to maintain this action pursuant to 28 U.S.C. § 1914, or to submit additional documentation regarding  
17 economic status as set forth above. **IF PLAINTIFF CHOOSES TO FILE ADDITIONAL INFOR-**  
18 **MATION REGARDING HIS POVERTY, HE MUST ATTACH A COPY OF THIS ORDER.**

19 IT IS SO ORDERED.

20  
21 DATED: September 14, 2011

22   
23 Hon. Anthony J. Battaglia  
24 U.S. District Judge  
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